

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

Utility Services of Illinois, Inc.	:	
	:	14-0741
Proposed Rate Increase for Water	:	
and Sewer Service.	:	

**REPLY BRIEF OF THE STAFF**  
**OF THE ILLINOIS COMMERCE COMMISSISON**

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**REPLY BRIEF OF THE STAFF**  
**OF THE ILLINOIS COMMERCE COMMISSION**

Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, pursuant to the direction of the Administrative Law Judges (“ALJ”) and Section 200.800 of the Illinois Administrative Code (83 Ill. Adm. Code 200.800), respectfully submits its reply brief in the above-captioned matter.

**I. INTRODUCTION**

**A. Procedural History**

In addition to Staff, the following parties individually or as indicated jointly filed initial briefs (“IB”): (1) Utility Services of Illinois, Inc. (“USI” or “Company”); (2) the People of the State of Illinois by Attorney General Lisa Madigan (“AG”); and (3) jointly, the Galena Territory Association, Inc. (“GTA”), Westlake Village Master Homeowners Association, Inc. (“Westlake”), and Westlake Village Limited Partnership (“WVLP”).

Some of the issues raised in the parties’ IBs were addressed in Staff’s IB and, in the interest of avoiding unnecessary duplication, Staff has not repeated every argument or response previously made in Staff’s IB. Thus, the omission of a response to an argument that Staff previously addressed simply means that Staff stands on the position taken in its IB.

**B. Nature of Operations**

**C. Test Year**

**D. Requested Increase**

**II. RATE BASE**

**A. Uncontested Issues**

1. **Working Capital**
2. **Plant Disallowances from Prior Proceedings (Including Derivative Impacts)**
3. **Capitalized Time in Plant Accounts with No Assets**
4. **Derivative Impact of Illinois State Income Tax Rate Change**
5. **Derivative Impact of 2014 Bonus Depreciation**
6. **Oakwood Main Project**
7. **Capitalization of Costs Associated with 83 Ill. Adm. Code 280**
8. **Original Cost Determination**

**B. Contested Issues**

1. **None<sup>1</sup> [Deferred Charges]**

Please see Section III.B.1 Deferred Maintenance Expense, below.

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<sup>1</sup> The agreed to outline listed no contested issues under rate base, however there is a contested operating expense issue concerning deferred maintenance expense [III.B.1], which has an impact on rate base as discussed in Section III.B.1. Accordingly, the outline should show that there is a contested rate base issue which Staff identifies in this brief as “Deferred Charges.”

### **III. OPERATING REVENUE AND EXPENSES**

#### **A. Uncontested Issues**

1. **Add-On Taxes / Public Utility Tax**
2. **Illinois State Income Tax Rate Change**
3. **Lake Marian Loss of Prudent Abandonment (“LOPA”) Amortization**
4. **2014 Bonus Depreciation**
5. **Holiday Parties, Events & Picnics Expense**
6. **Customer Service Expense**
7. **Unaccounted-For Water Expenses**
8. **Rent Expense**
9. **Rate Case Expense**

##### **a. Legal Fees**

Pursuant to Section 9-229 of the Public Utilities Act (“Act”), the Commission is to “specifically assess the justness and reasonableness of any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing. This issue shall be expressly addressed in the Commission’s final order.” 220 ILCS 5/9-229. With the exception of rate case expense for WSC personnel,<sup>2</sup> rate case expense was an uncontested issue. No party, including Staff, proposed an adjustment for legal fees in their respective IBs. The Company proposed legal fees of \$200,000, to which Staff agreed. (USI Ex. 7.2; USI Ex. 13.2; and Staff Ex. 2.0, Schedule 8.02, page 3 of 3, line 1.)

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<sup>2</sup> Rate case expense for WSC personnel was only contested by the AG. Staff withdrew its adjustment in its rebuttal testimony. (Staff Ex. 8.0, 4:65-67.)

Staff did propose adjustments related to projected expenses for a depreciation witness (negative \$16,276 adjustment) (Staff IB, 11), rate of return witness (negative \$29,950 adjustment) (Staff Ex. 8.0, Schedule 8.02, page 3 of 3, line 9 (\$49,950-\$20,000)), and various expenses related to mailing, travel and other costs related to rate case expense (negative \$9,200 adjustment) (Staff Ex. 8.0, Schedule 8.02, page 3 of 3, line 5). The Company accepted Staff's proposed adjustments (Staff IB, 11-12), and therefore did not address the agreed to issues in its IB.

**b. Depreciation Study Witness**

**c. Rate of Return Witness**

**d. Mailing, Travel, and Other Costs**

**B. Contested Issues**

**1. Deferred Maintenance Expense**

The AG's IB mischaracterizes the Staff position regarding its adjustments to deferred maintenance expense and deferred charges. (AG IB, 2-3.) The AG in its initial brief argues that Staff's adjustment "makes no attempt to consider the justness and reasonableness of the *amount* of the Company's proposed cost recovery for deferred maintenance, but rather simply proposes to stretch out the recovery of the same costs over a longer period." Id. at 3. This claim is not correct, as Staff witness Bridal proposed adjustments that disallowed several deferred maintenance costs because the deferrals had not been authorized by the Commission, were not necessary for the provision of utility services, or were not allowable under the Act. (Staff Ex. 1.0, 13-16.) Thus, Staff did consider the justness and reasonableness of the amount requested by the Company for deferred maintenance.

The AG IB is correct that one component of Staff witness Bridal's adjustment to extend the amortization period for tank painting from five years to ten years does "stretch out the recovery of the same costs over a longer period." (AG IB, 2-3.) However, the ten year amortization period is consistent with both the Company's and the Commission's prior practice. (Staff Ex. 1.0, at 16-17.) Further, the AG does not object to Mr. Bridal's reasoning regarding the extended amortization period. (AG IB, 3.)

For the reasons set forth above and within Staff's initial brief, the Commission should adopt Staff's adjustments to deferred maintenance expense and deferred charges.

## **2. Fuel Expense**

Staff takes issue with the AG's summary of Fuel Expense. (AG IB, 4-5.) The AG offers two alternative positions. One of the positions is not supported by evidence in the record and the other does not consider that USI, in its surrebuttal testimony, accepted Staff's proposal of \$2.66 per gallon<sup>3</sup> for the projection of 2015 fuel expense. (USI Exhibit 13.0, Schedule 13.02).

The AG offers an alternative that "the Commission could use Mr. Kersey's recommendation to use a value of \$2.7062, based on the March 2015 EIA forecast." (AG IB at 5.) However, the value of \$2.7062 is no longer the Company's position as of USI's surrebuttal (USI Ex. 13.0 4-5:76-90), as the Company incorporated a price of \$2.66 per gallon, not \$2.7062, into its surrebuttal position. The projection of \$2.7062 per gallon is from USI's rebuttal testimony (USI Ex. 8.0, Sch. 8.2, p.1, line 24) and, as stated above, this price per gallon is no longer a position advocated by any party. The AG IB does offer that the Commission use the "latest EIA data" at the time of the Commission's final

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<sup>3</sup> Staff Exhibit 8.0, Schedule 8.01

order, (AG IB, 5), however, that price and the additional information is not in the evidentiary record.

The choices currently before the Commission are Staff's position of \$2.66 per gallon, which was included in USI's surrebuttal schedules and testimony, USI's rebuttal position of \$2.71 which is no longer supported by USI, or the latest EIA data at the time of the Commission's final order which is not in evidence. Since Commission orders must be based upon evidence in the record (220 ILCS 5/10-103; 220 ILCS 5/10-201(e)(iv)(A)) the AG's alternative position of using the latest EIA data must be rejected. Given that USI no longer supports its rebuttal position, Staff recommends the Commission adopt Staff's proposed fuel price per gallon of \$2.66 that was accepted by USI in its surrebuttal testimony.

3. **Rate Case Expense**
  - a. **WSC Personnel**
4. **Insurance Expense**
5. **Wages & Salaries Expense**
6. **Uncollectibles Expense**
7. **Sales Adjustment**

AG witness Radigan disagreed with the Company's forecasted test year sales level, which reflects a 2.65% decline in customer usage. Because of this, Mr. Radigan proposed a \$130,000 adjustment to reduce the Company's revenue requirement. (AG Ex. 2.0, 12.) As to the mechanics of Mr. Radigan's proposed adjustment, Staff has explained why Mr. Radigan's proposed adjustment would not reduce the final revenue requirement in the way that Mr. Radigan intends and that if an adjustment is to be made, it should be

made to the usage billing units used to calculate the final rates. (Staff IB, 20-21.) In its IB, the AG acknowledges that if an adjustment is made, then it should be made to the usage billing units used to calculate the final rates to recover the approved revenue requirement. (AG IB, 11.).

Unlike Mr. Radigan, Staff did not take issue with the Company's adjustment to reflect a 2.65% decrease in customer usage. However, if the Commission agrees with Mr. Radigan that it is unreasonable to anticipate any decline in usage, then Staff recommends the Commission increase the usage billing units by 2.65% in the calculation of rates rather than adjusting the revenues in the manner Mr. Radigan had proposed. (Staff IB, 21.)

#### **IV. RATE OF RETURN**

##### **A. Uncontested Issues**

1. **Capital Structure**
2. **Cost of Debt**
3. **Return on Equity (“ROE”)**

#### **V. RATE DESIGN**

##### **A. Uncontested Issues**

1. **Availability Charge**
2. **Provision of an Updated Cost of Service Study in the Company’s Next Rate Case**

##### **B. Contested Issues**

1. **Forecasted Reduction in Water Usage**
2. **Consolidated Rate Structure**
  - a. **Consolidation of All Service Areas**

GTA/WVLP/Westlake argue that “by establishing statewide rates that exceed the stand-alone cost to serve customers, USI’s rates to GTU and WUI customers are neither just nor reasonable.” (GTA/WVLP/Westlake IB, 8.) Under the Act, the determination of whether a rate is just and reasonable does not solely depend upon a cost analysis as GTA/WVLP/Westlake argue. GTA/WVLP/Westlake fail to recognize that the Act allows the Commission to consider factors other than costs when designing rates. Under the Act, one of the goals and objectives of regulation is to consider equity. 220 ILCS 5/1-102(d). Equity is the fair treatment of consumers and investors. Id. Equity involves not just considering the cost of supplying service so that it is allocated to those who cause the costs, 220 ILCS 5/1-102(d)(iii), but it can include factors other than cost of service.

220 ILCS 5/1-102(d)(iv) (*stating* “if factors other than cost of service are considered in regulatory decisions, the rationale for these actions is set forth”).

Company witness Mr. Steven Lubertozzi and Staff witness Mr. Christopher Boggs provide equitable justification for the Commission to approve a single consolidated rate rather than stand-alone rates, as argued for by GTA/WVLP/Westlake. Mr. Lubertozzi testified that consolidated rates are common place for other regulated entities like gas and electric. (USI Ex. 1.0, 13:281-282.) He explained the benefits of costs being spread over a larger base that in the end benefits customers and can protect customers from rate shock. He pointed out that the small stand-alone utilities would be able to have significant capital improvements spread out over a larger base. He further testified that consolidated rate will strengthen USI and allow customers to benefit from fewer rate cases and lower rate case expense. Id., 282-288. Staff witness Christopher Boggs agreed in general with Mr. Lubertozzi’s testimony on this issue. (Staff Ex. 4.0, 5:87-93.) Mr. Boggs recognized that pulling any division out of the fully Consolidated Group, as a stand-alone group, does mitigate the rate impacts to the stand-alone division as compared to including that division in the Consolidated Group. However, he pointed out that the remainder of the Consolidated Group would then have more significant rate impacts. Id., 13:232-235. Mr. Boggs testified that stand-alone rates must be weighed against the fact that with a single consolidated rate for all the water divisions, large capital improvements could be spread across a larger base of customers when it becomes necessary to update infrastructure that provides safe and reliable water service. Mr. Boggs agreed with Mr. Lubertozzi that consolidation also would mitigate the impact of rate case expenses if the Company has to file for only a single division rather than twenty-two different water divisions. He further

testified that when rate case expenses and infrastructure improvements are necessary, significant rate increases to fund these improvements could prove quite burdensome for the small number of customers in individual, smaller water divisions if there was no single consolidated rate. Id., 235-244. For example, he pointed out that on page 8 of USI Ex. 3.3, the Company projects nearly \$611,000 in capital improvements in 2015 for the Ferson Creek division. Spreading those costs among the 381 customers in the division would have a more significant impact on the monthly bills of those 381 customers than it would if the costs were spread out over approximately 11,600 customers in the Consolidated Group. (Staff Ex. 4.0, 13:244-249.) It was Mr. Boggs's opinion that, in the long run, the benefits of consolidation outweigh its disadvantages. Id., 249-250.

GTA/WVLP/Westlake quote many comments made by GTA and Westlake Utilities, Inc. ("WUI") customers recorded on the Commission's website arguing that customers do not understand the proposed increases and that the rates are unreasonable, and to help those customers better understand the increases and utility charges, they should be phased in over several rate cases, eventually culminating in a single consolidated rate. (GTA/WVLP/Westlake IB, 9-12.) Putting aside whether a customer stating that he/she does not understand a rate or that he/she believes a rate is not reasonable is a sufficient record basis to justify a phase in light of the equity goal and objective in Section 5/1-102(d)(ii) of the Act, the Commission is free to reject a phase in. It clearly is within the Commission's discretion to approve a single consolidated rate in this case, as the Company proposes and Staff supports. The courts give great deference to the Commission in setting rates. Deference to the Commission is "especially appropriate in the area of fixing rates." (Iowa-III. Gas & Electric Co. v. Ill. Commerce Comm'n, 19 Ill. 2d

436, 442 (1960).) A rate is more than a number; it is also a design. The Commission's decision in a rate case does not involve simply what utilities may charge their customers, but how they do so. (The People v. Ill. Commerce Comm'n, 2015 IL 116005 ¶ 23 (*citing City of Chicago v. Ill. Commerce Comm'n*, 13 Ill. 2d 607, 611 (1958) (*holding* "the statutory authority to approve rate schedules embraces more than the authority to approve rates fixed in terms of dollars and cents."))).) With respect to rate design in particular, the courts have held that "because of its complexity and need to apply informed judgment, rate design is uniquely a matter for the Commission's discretion." (See Central Ill. Public Service Co. v. Ill. Commerce Comm'n, 243 Ill. App. 3d 421, 445 (1993).)

Based upon the above, the Commission should reject GTA/WVLP/Westlake's arguments for a phase in and approve the Company's proposed consolidated rate structure.

**b. Inclusion of Oakwood in Rate Design**

**VI. OTHER**

**A. Uncontested Issues**

1. **Elimination of Purchased Water and Purchased Sewer Surcharges**
2. **Final Reconciliations of Purchased Water and Purchased Sewer Surcharges**
3. **Proposed Depreciation Rates**
4. **Maximum Allowable Unaccounted-for Water Percentage**
5. **Other Tariff Change Proposals**

**B. Contested Issues**

1. **None.**

## VII. CONCLUSION

Staff respectfully requests that the Illinois Commerce Commission approve Staff's recommendations in this docket.

Respectfully submitted,

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